



# County of San Diego

DEPARTMENT OF ENVIRONMENTAL HEALTH

FOOD AND HOUSING DIVISION

[www.sdcdeh.org](http://www.sdcdeh.org)



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## CALIFORNIA Cottage Food Law FAQs

### 1. When does the new law go into effect?

The new law, AB1616, becomes effective January 1, 2013.

A number of tasks related to the law's implementation are assigned to the California Department of Public Health (CDPH). Among the tasks assigned to this state agency are providing food processor training, posting approved cottage foods on their webpage, and establishing a process for adding and removing foods from the approved cottage food list.

### 2. What is a Cottage Food Operation (CFO)?

A CFO is an enterprise at a private home in which the cottage food operator resides. It allows certain low-risk food products to be prepared and/or packaged for public consumption and sale.

### 3. What is meant by "private home?"

"Private home" means a dwelling, including an apartment or other leased space, where individuals reside. The cottage food operation must be from the primary residence. Second homes, vacation homes, motor homes do not qualify.

### 4. Can a CFO have employees?

A CFO can have one full time equivalent employee who is an individual employed for the CFO (not counting family members).

### 5. Are there limitations on the size of CFO's sales?

\$35,000 or less in gross sales in 2013

\$45,000 or less in gross sales in 2014

\$50,000 or less in gross sales in 2015 and beyond

### 6. What types of cottage food can a CFO prepare?

Only foods that are defined as "non-potentially hazardous" are approved for preparation by CFOs. These are foods that do not require refrigeration to keep them safe from bacterial growth that could make people sick. The California Department of Public Health will establish and maintain a list of these approved foods on their website and will establish a process by which new foods can be added to the list and other foods can be challenged and removed. The initial list includes:

- 1) Baked goods without cream, custard, or meat fillings, such as breads, biscuits, churros, cookies, pastries, and tortillas
- 2) Candy, such as brittle and toffee
- 3) Chocolate-covered nonperishable foods, such as nuts and dried fruit
- 4) Dried fruit
- 5) Dried pasta
- 6) Dry baking mixes
- 7) Fruit pies, fruit empanadas, and fruit tamales
- 8) Granola, cereals, and trail mixes
- 9) Herb blends and dried mole paste
- 10) Honey and sweet sorghum syrup
- 11) Jams, jellies, preserves, and fruit butter that comply with the standard described in [Part 150 of Title 21 of the Code of Federal Regulations](#) (These should be fruit products to assure that they are not potentially hazardous.)
- 12) Nut mixes and nut butters
- 13) Popcorn
- 14) Vinegar and mustard
- 15) Roasted coffee and dried tea
- 16) Waffle cones and pizzelles

**7. What are the two categories of CFOs?**

- A. **Class A** CFOs are only allowed to engage in “direct sale” of cottage food.
- B. **Class B** CFOs may engage in both “direct sale” and “indirect sale” of cottage food.

**8. What is meant by “direct sale” of cottage food?**

“Direct sale” means a transaction between a CFO operator and a consumer, where the consumer purchases the cottage food product directly from the CFO. Direct sales include, but are not limited to, transactions at holiday bazaars or other temporary events, such as bake sales or food swaps, transactions at farm stands, certified farmers’ markets, or through community supported agriculture subscriptions, and transactions occurring in person in the cottage food operation. The registered CFO is an approved source for sales.

**9. What is meant by “indirect sale” of cottage food?**

“Indirect sale” means an interaction between a CFO, a third-party retailer, and a consumer, where the consumer purchases cottage food products made by the CFO from a third-party retailer that holds a valid permit issued by the Department of Environmental Health. Indirect sales include, but are not limited to, sales made to retail shops or to retail food facilities where food may be to be immediately consumed on the premises.

**10. Do I need any special training or certification to prepare cottage foods?**

A person who prepares or packages cottage food products must complete a food processor course instructed by the California Department of Public Health within 3 months of being registered or permitted.

**11. Does a CFO need a permit to operate?**

- A. Planning/Zoning: All CFOs need to obtain approval from their local city or county planning department. The Homemade Food Act gives planning departments several options to consider and so planning department requirements may vary between jurisdictions.
- B. For **Class A** CFOs (direct sales only), **registration** with the Department of Environmental Health (DEH), Food & Housing Division (FHD) and completion of a “self-certification checklist” approved by DEH is required.
- C. For **Class B** CFOs (direct and indirect), an **annual permit** from DEH-FHD is required.

**NOTE:** A registration or permit, once issued, is nontransferable. A registration or permit shall be valid only for the person; location; type of food sales; and distribution activity specified by that registration or permit. Notify DEH-FHD of any changes.

**12. How often will a CFO be inspected?**

- A. **Class A:** CFO kitchens and food storage areas (referenced in the law as the “registered or permitted area”) are not subject to initial or routine inspections. A Cottage Food Registration fee is required.
- B. **Class B:** CFO kitchens and food storage areas are inspected initially prior to permit issuance, and then annually after that. A Cottage Food Permit fee is required.
- C. **Class A & B (Other Inspections):** DEH may access, for inspection purposes, the registered or permitted area where a CFO is located if the representative has, on the basis of a consumer complaint, reason to suspect that adulterated or otherwise unsafe food has been produced by the CFO or that the CFO is found to be in violation of California food safety laws on cottage food operations. CFOs found to be in violation of will be subject to a charge for the inspection and any enforcement activities.

**13. What are the CFO’s operational requirements?**

All CFOs:

- A. The CFO needs to submit self-certification checklist to verify:
  - ✓ No domestic activity in kitchen during cottage food preparation
  - ✓ No infants, small children, or pets in kitchen during cottage food preparation
  - ✓ Kitchen equipment and utensils kept clean and in good repair
  - ✓ All food contact surfaces and utensils washed, rinsed, and sanitized before each use
  - ✓ All food preparation and storage areas free of rodents and insects
  - ✓ No smoking in kitchen area during preparation or processing of cottage food
  - ✓ Person with contagious disease must refrain from working
  - ✓ Hands and exposed portions of arms of food workers must be kept clean and washed

before any food preparation or packaging

B. Water used in preparation activities must be potable. Cottage food preparation activities include:

- ✓ Washing, rinsing, and sanitizing of any equipment used in food preparation
- ✓ Washing and sanitizing hands and arms
- ✓ Water used as an ingredient of cottage food

**14. Can a CFO sell cottage food outside the county of residence?**

CFOs can only sell cottage food outside the county of residence when the local health department of the outside county allows it.

**15. What would be my food labeling requirements?**

In a permitted food facility, cottage food needs to be identified to the customer as homemade on the menu, menu board or other easily accessible location.

A. All cottage food-labeling needs to be in accordance with the [Federal Food, Drug, and Cosmetic Act \(21 U.S.C. Sec. 343 et seq.\)](#), and in addition, the label shall include:

- 1) "Made in a Home Kitchen" in 12-point type
- 2) Name commonly used for the food product
- 3) Name of CFO which produced the food (Registered with DEH-FHD)
- 4) Registration or permit number and the name of the local enforcement agency that issued the permit (i.e. County of San Diego, Department of Environmental Health, Food & Housing Division)
- 5) Product ingredients in descending order by weight
- 6) Address of Cottage Food Operation
- 7) The net quantity (count, weight, or volume) of the food product, it must be stated in both English (pound) units and metric units (grams).
- 8) A declaration on the label in plain language if the food contains any of the major food allergens such as milk, eggs, tree nuts, wheat, peanuts, and soybeans. There are two approved methods prescribed by federal law for declaring the food sources of allergens in packaged foods: 1) in a separate summary statement immediately following or adjacent to the ingredient list, or 2) within the ingredient list.

B. In a permitted food facility, cottage food products served without packaging or labeling shall be identified to the customer as homemade on the menu, menu board or other easily accessible location.

**16. Can I utilize commercial type equipment such as large rotary mixers in my cottage food operation?**

No. Typically a private home is not equipped with sinks required to effectively wash, rinse, and sanitize large commercial equipment.

**17. Does my equipment, stove and/or refrigerator need to be NSF (a food equipment evaluation group) approved?**

No. As a Cottage Food operator, you are not required to meet NSF/ANSI standards for your equipment used to manufacture Cottage Food products.

**18. Can I bake bread in a wood-fired oven?**

Yes, as long as that oven is in your home kitchen.

**19. Can I press and sell apple cider?**

No. Apple cider is not a food allowed to be produced. Actually, no beverages are allowed to be produced.

**20. The farmers market where I want to sell my products says I need a food permit, even though I am a Cottage Food business. Can the market require a permit?**

No. A separate Temporary Food Facility Permit is not required to sell your prepackaged Cottage Food product. However, if any food preparation will be conducted inside the booth using your Cottage Food Product, then a separate Temporary Food Facility Permit will be required.

**21. Are there any special requirements regarding my home on-site well?**

Yes. Only potable water from a properly constructed on-site well or municipal water system can be used. If a well is used, the well water should be tested, at least annually, for coliform bacteria and nitrates. Check with the Land & Water Quality Division of DEH (858) 694-2949.

**22. Can I make and sell sweet breads, muffins or other baked goods made with fresh fruits and vegetables like zucchini, pumpkin, and strawberries?**

Yes, as long as the fruits or vegetables are incorporated into the batter and properly baked, labeled and packaged. The baked goods may not be decorated or garnished with fresh fruits or vegetables.

**23. Can I use homegrown fruits and vegetables in baked goods?**

Yes. All ingredients used in the cottage food must be from an approved source. If using homegrown vegetation a culinary agreement letter must be provided to DEH-FHD. You should take care to thoroughly wash the homegrown produce and the fruits or vegetables must be incorporated into the batter and properly baked, labeled and packaged. The baked goods may not be decorated or garnished with fresh fruits or vegetables.

**24. Can I freeze homegrown produce and use it for making baked goods, like sweet breads, at a later date?**

Yes, as long as the frozen fruits or vegetables are incorporated into the batter and properly baked, labeled and packaged. The baked goods may not be decorated or garnished with fresh or frozen fruits or vegetables.

**25. Can I sell my Cottage Foods over the Internet?**

A cottage food operator may advertise as well accept orders and payments via Internet or phone. However, a CFO must deliver (in person) to the customer. A CFO may not deliver any CFO products via US Mail, UPS, FedEx or using any other third-party delivery service. A cottage food operator may not introduce a CFO product into interstate commerce.

**26. Can I serve free samples of my Cottage Food Products?**

Yes. As long as your product meets the requirements of the Cottage Food Law and is a non-potentially hazardous food, sampling is allowed. Samples must be pre-packaged in your home kitchen. Although you do not need an individual label for each sample, you must have properly labeled packages of your product on display with the samples so your customer can review the ingredient list. Your product cannot be cooked or prepared in a way that makes it a potentially hazardous food/temperature control for safety food (e.g., you can't add a dried dip mix to sour cream or serve anything that can't be kept safely at room temperature - these examples would require a food facility permit).

**27. What is a potentially hazardous food/temperature controlled for safety food (PHF)?**

A potentially hazardous food is a food that requires time and temperature control for safety (TCS) to limit pathogen growth or toxin production. In other words, a food must be held under proper temperature controls, such as refrigeration to prevent the growth of bacteria that may cause human illness. A PHF is a food that:

- ✓ Contains moisture (water activity greater than 0.85)
- ✓ Contains protein
- ✓ Is neutral to slightly acidic (pH between 4.6 and 7.5)

**28. What are the fees associated with a Cottage Food Operation (CFO)?**

The annual fees for a Class A Registration are \$142, and the annual fees for a Class B permit are \$284.

**If you have any questions that have not been answered or clarified by the items listed above, please feel free to contact our Information Specialist at (858) 505-6900.**

**29. The complete chaptered bill may be found at here: [ab 1616 bill 20120921 chaptered.pdf](#)**